

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Jennifer Lehmann, : Civil Action No.: _____
Plaintiff, :
v. :
Citibank NA, : **COMPLAINT**
Defendant. :
:
:

For this Complaint, Plaintiff, Jennifer Lehmann, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331, in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Jennifer Lehmann ("Plaintiff"), is an adult individual residing in Shallotte, North Carolina, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant, Citibank NA ("Citibank"), is a New York business entity with an address of P.O. Box 6191, Sioux Falls, South Dakota 57117-6191, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

5. Within the last year, Citibank began calling Plaintiff's cellular telephone, number 919-xxx-8577, using an automatic telephone dialing system ("ATDS" or "predictive dialer")

and/or using an artificial or prerecorded voice.

6. Plaintiff does not know how Citibank acquired her cellular telephone number.
7. Plaintiff did not provide prior express consent to Citibank to place automated calls to her cellular telephone number.
8. When Plaintiff received voicemail messages from Citibank, she heard a prerecorded message in Spanish asking for "Ament Hernandez."

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
10. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.
11. The telephone number called by Defendant was assigned to a cellular telephone serviced by Straight Talk for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).
12. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.
13. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).
14. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).
15. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be awarded in Plaintiff's favor and against Defendant as follows:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Granting Plaintiff such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 20, 2018

Respectfully submitted,

By: /s/ Sergei Lemberg
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